

**APR 12 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

VICTOR SALDIVAR-QUEZADA,

Defendant - Appellant.

No. 05-10276

D.C. No. CR-04-01755-FRZ

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Arizona  
Frank R. Zapata, District Judge, Presiding

Submitted April 5, 2006<sup>\*\*</sup>

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Victor Saldivar-Quezada appeals from the 57-month sentence imposed after his guilty-plea conviction to unlawful re-entry following deportation, in violation of 8 U.S.C. § 1326. We have jurisdiction pursuant to 28 U.S.C. § 1291.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Saldivar-Quezada's contentions are foreclosed by this circuit's case law. *See United States v. Velasquez-Reyes*, 427 F.3d 1227, 1229 (9th Cir. 2005) (rejecting contention that prior convictions must be proved to a jury if not admitted by the defendant); *see also United States v. Weiland*, 420 F.3d 1062, 1079 n.16 (9th Cir. 2005) (noting that the court continues to be bound by the Supreme Court's holding in *Almendarez-Torres v. United States*, 523 U.S. 224 (2005)).

**AFFIRMED.**